IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3192 OF 2006

Mrs.Bhamabai @ Bhimabai Thorwe
and Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.Vanarase with V.B.Tapkir for applicants
Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 29th August 2006

P.C.

. Applicants are women accused in C.R. No..17 of 2006 registered with Junnar Police

Station alleging offences punishable under section 302, 323 read with 34 I.P.C. The F.I.R. which was registered with the above police station alleges that the complainant resides along with his wife and children in Junnar Taluka and more particularly in the village, description of which is given in statement recorded on 9th April 2006. He has stated that in the year 1996, his younger brothers had purchased agricultural land admeasuring 30 gunthas after paying Rs.2,70,000/-. The land is being cultivated by his younger brother Ramesh and Prakash. Since, his brothers had borrowed monies from the Patpedhi and the local bank, the land which was purchased from Sanjay Thorwe was sold by them to one Sindhubai. The sale deed is already executed. Standing crop of Onion was to be removed and, thereafter, the land was to be handed over to Sindhubai.

2. On the relevant date when they entered

the land for removing standing crop of Onion, the earlier vendor Sanjay Thorwe and the applicants before me together with their sons Mahendra and Jitendra also entered the land and quarrel took place between them with regard to the title to the land. They were insisting that the land be re-sold and/or transferred to them. Scuffle that ensued, resulted in police complaint. Thereafter, on 8th April 2006 statement of the brother came to be recorded wherein he has stated that after dinner Vasant Bansi Thorwe heard shouts from the residential premises of his younger brother Prakash. He woke up from sleep and he found that some persons were running away from the premises. He has clearly stated that he could not identify them in the darkness so also because, he was not wearing his spectacles. However, when he reached the residence of his brother, he saw him lying after having suffered injuries on his forehead. He was also injured on his hand and his clothes were torn. Thereafter,

the complainant and others carried him to the hospital but he succumbed.

3. This witness has stated that upon enquiries being made he was told that the present applicants as also other male members of the family of the applicants, firstly hit the deceased by administering fist blows and, thereafter, they administered some poisionous liquid/medicine. He states this is the version of the deceased.

4. Applicants were arrested along with male members and are in custody. This version is more or less supported by the other witnesses. Investigations are complete and the charge sheet is filed. First application for bail was rejected and even the second application has been rejected on 11th August 2006.

5. Mr.Vanarase contends that apart from

being women accused as far as the present applicant are concerned, there is no role attributed to them in the crime. It is not the case of the witness and/or the wife of deceased that the applicants had assaulted or were seen administering some liquid which was allegedly poisionous. In such circumstances and when investigation is complete, although, the offence is serious, the applicants deserve to be enlarged on bail, more so, when they are women and house-wives.

6. He submits that the finding of the learned Judge that there is no male member in the family of the deceased and, therefore, there is every possibility of tampering with the prosecution witnesses is totally unfounded, because, no material has been placed before the trial court in that behalf.

7. On consideration of the application and

annexures thereto, so also the statement of the witnesses, in my view, it is clear that in so far as alleged incident is concerned, even the wife of the deceased, whose statement has been recorded has not attributed any specific role to the applicants. There are two instances. The first of 4th April 2006 which is clearly over a dispute with regard to title of the agricultural land. Therefore, when the applicants are women and have been in custody for a long time, so also, investigations are complete and charge sheet is filed and their role being not definite, they deserve to be enlarged on bail.

8. Hence, following order:-

i) The applicants (1) Bhamabai @ Bhimabai Suresh Thorwe and (2) Manisha Sanjay Thorwe, arrested in connection with C.R.No.17 of 2006 registered with Junnar Police Station shall be enlarged

on bail subject to furnishing a personal bond of Rs.15,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants will remain present before the concerned investigating officer, Junnar Police Station, once in a fortnight till conclusion of the trial.

iii) The order of bail will be given effect only after the applicants furnish to the investigating officer the details about their place of residence and addresses where they propose to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicants shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)